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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,285	06/20/2003	James A. Haberstroh	14184 (6365/89767)	6377

7590 06/16/2004

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EXAMINER

GERRITY, STEPHEN FRANCIS

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/601,285	Applicant(s) HABERSTROH ET AL.	
	Examiner Stephen F. Gerrity	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,4-8,11-15,18 and 21 is/are allowed.
- 6) ☒ Claim(s) 2,3,9,10,16,17,19 and 20 is/are rejected.
- 7) ☒ Claim(s) 2,9 and 16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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DETAILED ACTION

Drawings

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.
2. The drawings are objected to because the use of photographs as figures 4 and 5 is deemed unnecessary, and the dark quality of the photographs makes it questionable as to their eventual reproduction quality in a patent. Applicant is respectfully requested to resubmit figures 4 and 5 in the form of black ink patent-quality illustrations. Corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference character(s) mentioned in the description: latching assembly 60, finger 64 and opening 74 (see page 6, paragraphs 34 and 35). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet,

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even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claims 2, 9 and 16 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Each of the claims 2, 9 and 16 recites a "latch for securing the upper guide portion in the closed position", whereas the independent claims 1, 8 and 15 already recite "a latching element for securing the upper guide portion in the closed position". Each of the claims 2, 9 and 16 is deemed not to further limit the independent claims 1, 8 and 15, respectively.

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Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2, 3, 9, 10, 16, 17, 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites a "latch for securing the upper guide portion in the closed position" which makes the scope of the claim ambiguous because claim 1 recites a "latching element for securing the upper guide portion in the closed position", and it is unclear if the latch and the latching element are the same or a different element.

Claim 9 recites a "latch for securing the upper guide portion in the closed position" which makes the scope of the claim ambiguous because claim 8 recites a "latching element for securing the upper guide portion in the closed position", and it is unclear if the latch and the latching element are the same or a different element.

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Claim 10, line 2, "the latch" lacks proper antecedent basis in claim 8; it is suggested that claim 10 be amended to depend from claim 9 as opposed to claim 8.

Claim 16 recites a "latch for securing the upper guide portion in the closed position" which makes the scope of the claim ambiguous because claim 15 recites a "latching element for securing the upper guide portion in the closed position", and it is unclear if the latch and the latching element are the same or a different element.

Claim 19 recites "the one of the feed wheels" in lines 1 and 2; the recitation lacks proper antecedent basis in claim 15. It is suggested that claim 19 be amended to depend from claim 18 as opposed to claim 15.

These and any other informalities should be corrected so that the claims may particularly point out and distinctly claim the subject matter which applicant regards as the invention, as required by 35 U.S.C. § 112, second paragraph.

Allowable Subject Matter

7. Claims 1, 4-8, 11-15, 18 and 21 are allowed.
8. Claims 2, 3, 9, 10, 16, 17, 19 and 20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

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Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references listed on the attached form (PTO-892) are cited to show strapping machines and their chutes. All are cited as being of interest and to show the state of the prior art.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Stephen F. Gerrity** whose telephone number is (703) 308-1279. The examiner can normally be reached on **Monday - Friday** from 5:30 - 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Rinaldi Rada**, whose telephone number is (703) 308-2187, may be contacted.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 3700 **receptionist** whose telephone number is (703) 308-1148.

A handwritten signature in black ink, appearing to read "Stephen F. Gerrity", is written over the printed name.

Stephen F. Gerrity
Primary Examiner
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14 June 2004